

**SIXTY-SEVENTH LEGISLATIVE DAY
THURSDAY, MARCH 18, 2004**

House of Representatives

The House convened at 9:30 a.m., the Speaker in the Chair.

Roll call showed all 70 members present.

Prayer was offered by Chaplain Jim Hardenbrook.

The Pledge of Allegiance was led by Sarah Lynn Shaffer, Page.

Approval of Journal

March 18, 2004

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have read and approved the House Journal of the Sixty-sixth Legislative Day and recommend that same be adopted as corrected.

FIELD(18), Chairman

Mrs. Field(18) moved that the report be adopted. Seconded by Mrs. Boe. Report adopted.

**Consideration of Messages from the
Governor and the Senate**

March 17, 2004

Mr. Speaker:

I transmit herewith enrolled **S 1256, S 1257, S 1258, S 1259, S 1260, S 1276, S 1282, S 1311, S 1371, S 1382, SCR 129**, and **SJM 109** for the signature of the Speaker.

WOOD, Secretary

The Speaker announced he was about to sign enrolled **S 1256, S 1257, S 1258, S 1259, S 1260, S 1276, S 1282, S 1311, S 1371, S 1382, SCR 129**, and **SJM 109** and, when so signed, ordered them returned to the Senate.

March 17, 2004

Mr. Speaker:

I transmit herewith **S 1322, S 1445**, and **S 1441** which have passed the Senate.

WOOD, Secretary

S 1322, S 1445, and **S 1441** were filed for first reading.

March 17, 2004

Mr. Speaker:

I return herewith **H 627, H 706, H 604**, as amended, **H 570, H 654, H 684, H 564, H 587**, as amended, **H 727, H 658, H 697, H 677, H 683, H 783, H 784, H 785, H 786**, and **H 724** which have passed the Senate.

WOOD, Secretary

H 627, H 706, H 604, as amended, **H 570, H 654, H 684**,

H 564, H 587, as amended, **H 727, H 658, H 697, H 677, H 683, H 783, H 784, H 785, H 786**, and **H 724** were referred to the Judiciary, Rules, and Administration Committee for enrolling.

March 17, 2004

Mr. Speaker:

I return herewith **H 502** which has failed the Senate.

WOOD, Secretary

H 502 was filed in the Office of the Chief Clerk.

Report of Standing Committees

March 18, 2004

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION report that we have printed **HCR 56**.

FIELD(18), Chairman

HCR 56 was filed for second reading.

March 18, 2004

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have enrolled **H 521, H 488, H 619, H 482**, as amended, **H 670, H 585, H 633, H 669, H 768, H 560**, as amended in the Senate, **H 473**, as amended in the Senate, **H 627, H 706, H 604**, as amended, **H 570, H 654, H 684, H 564, H 587**, as amended, **H 727, H 658, H 697, H 677, H 683, H 783, H 784, H 785, H 786**, and **H 724**.

FIELD(18), Chairman

The Speaker announced he was about to sign enrolled **H 521, H 488, H 619, H 482**, as amended, **H 670, H 585, H 633, H 669, H 768, H 560**, as amended in the Senate, **H 473**, as amended in the Senate, **H 627, H 706, H 604**, as amended, **H 570, H 654, H 684, H 564, H 587**, as amended, **H 727, H 658, H 697, H 677, H 683, H 783, H 784, H 785, H 786**, and **H 724**, and, when so signed, ordered them transmitted to the Senate for the signature of the President.

March 18, 2004

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have engrossed **H 635**, as amended in the Senate, **H 586**, as amended in the Senate, **H 651**, as amended, as amended in the Senate, and **H 693**, as amended in the Senate.

FIELD(18), Chairman

H 635, as amended in the Senate, **H 586**, as amended in the Senate, **H 651**, as amended, as amended in the Senate, and **H 693**, as amended in the Senate, were filed for first reading of engrossed bills.

March 18, 2004

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have transmitted enrolled **HCR 49** and **HCR 46** to the Secretary of State at 10:55 a.m., as of this date, March 17, 2004.

FIELD(18), Chairman

March 17, 2004

Mr. Speaker:

We, your COMMITTEE ON WAYS AND MEANS, report that we have had under consideration **SCR 132** and recommend that it do pass.

MEYER, Chairman

SCR 132 was filed for second reading.

March 17, 2004

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have had under consideration **S 1393**, as amended, and recommend that it do pass.

FIELD(18), Chairman

S 1393, as amended, was filed for second reading.

March 17, 2004

Mr. Speaker:

We, your COMMITTEE ON BUSINESS, report that we have had under consideration **S 1389** and **S 1435** and recommend that they do pass.

BLACK, Chairman

S 1389 and **S 1435** were filed for second reading.

There being no objection, the House advanced to the Eighth Order of Business.

Introduction, First Reading, and Reference of Bills and Joint Resolutions

S 1322, by Education Committee, was introduced, read the first time by title, and referred to the Education Committee.

S 1441, by Judiciary and Rules Committee, was introduced, read the first time by title, and referred to the State Affairs Committee.

S 1445, by Finance Committee, was introduced, read the first time by title, and filed for second reading.

First Reading of Engrossed Bills

H 635, as amended in the Senate, by Resources and Conservation Committee, was introduced, read the first time by title and filed for second reading.

H 586, as amended in the Senate, by Judiciary, Rules, and Administration Committee, was introduced, read the first time by title and filed for second reading.

H 651, as amended, as amended in the Senate, by Revenue and Taxation Committee, was introduced, read the first time by title and filed for second reading.

H 693, as amended in the Senate, by State Affairs Committee, was introduced, read the first time by title and filed for second reading.

Second Reading of Bills and Joint Resolutions

HJM 26, by Ways and Means Committee, was read the second time by title and filed for third reading.

H 842, by Appropriations Committee, was read the second time by title and filed for third reading.

SCR 128, **SCR 127**, **S 1280**, as amended, and **S 1418**, by Judiciary and Rules Committee, were read the second time by title and filed for third reading.

S 1313, as amended, by Agricultural Affairs Committee, was read the second time by title and filed for third reading.

S 1269, as amended, by Local Government and Taxation Committee, was read the second time by title and filed for third reading.

S 1301, as amended, by Health and Welfare Committee, was read the second time by title and filed for third reading.

S 1323, as amended in the House, by Education Committee, was read the second time by title and filed for third reading.

S 1439, as amended in the House, by State Affairs Committee, was read the second time by title and filed for third reading.

S 1443, by Finance Committee, was read the second time by title and filed for third reading.

H 520, as amended in the Senate, by Judiciary, Rules, and Administration Committee, was read the second time by title and filed for third reading.

H 798, as amended, by State Affairs Committee, was read the second time by title and filed for third reading.

H 800, as amended, by Revenue and Taxation Committee, was read the second time by title and filed for third reading.

There being no objection, the House advanced to the Twelfth Order of Business.

Consideration of General Orders

Mr. Denney moved that the House do now resolve itself into a Committee of the Whole House for the consideration of General Orders. Seconded by Ms. Jaquet. Motion carried.

Whereupon the House resolved itself into a Committee of the Whole House for the consideration of General Orders with Mr. Moyle in the Chair.

When the Committee of the Whole House rose, the Speaker returned to the Chair and the House was in order.

Report of the Committee of the Whole House

March 18, 2004

Mr. Speaker:

We, your COMMITTEE OF THE WHOLE HOUSE, report that we have had under consideration **S 1293** and report it back without recommendation, amended as follows:

HOUSE AMENDMENT TO S 1293

AMENDMENT TO SECTION 2

On page 2 of the printed bill, in line 6, following "authority," insert: "The consumer and family representatives shall be selected from nominations submitted by mental health consumer and advocacy organizations.".

MOYLE, Chairman

Mr. Moyle moved that the report be adopted. Seconded by Mr. Denney.

Whereupon the Speaker declared the report adopted.

S 1293, as amended in the House, was filed for first reading.

The amendments were referred to Judiciary, Rules, and Administration committee for printing.

There being no objection, the House returned to the Eleventh Order of Business.

Third Reading of Bills and Joint Resolutions

H 832 was read the third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Smith(24) to open debate.

Pursuant to Rule 38(3), Mr. Gagner disclosed a conflict of interest regarding **H 832**.

The question being, "Shall **H 832** pass?"

Roll call resulted as follows:

AYES -- Barraclough, Black, Block, Bradford, Campbell, Cannon, Clark, Collins, Crow, Cuddy, Deal, Ellsworth, Field(18), Gagner, Garrett, Henbest, Jaquet, Jones, Kellogg, Lake, Langhorst, Miller, Mitchell, Nielsen, Pasley-Stuart, Ring, Ringo, Roberts, Rydalch, Schaefer, Shirley, Skippen, Smith(24), Smylie, Trail, Wills, Mr. Speaker. Total -- 37.

NAYS -- Andersen, Barrett, Bauer, Bayer, Bedke, Bell, Boe,

Bolz, Denney, Douglas, Eberle, Edmunson, Eskridge, Harwood, Kulczyk, Langford, Martinez, McGeachin, McKague, Meyer, Moyle, Naccarato, Raybould, Ridinger, Robison, Sali, Sayler, Shepherd, Smith(30), Snodgrass, Stevenson, Wood. Total -- 32.

Absent and excused -- Field(23). Total -- 1.

Total -- 70.

Whereupon the Speaker declared **H 832** passed the House. Title was approved and the bill was ordered transmitted to the Senate.

There being no objection, the House returned to the Seventh Order of Business.

Motions, Memorials, and Resolutions

Mr. Denney moved that all rules of the House interfering with the immediate consideration of **S 1443** be suspended; that the portions of Section 15, Article 3 of the Constitution of the State of Idaho, requiring all bills to be read on three several days be dispensed with, this being a case of urgency; and that **S 1443** be read the first time by title, second time by title, and third time at length, section by section, and placed before the House for final consideration. Seconded by Ms. Jaquet.

The question being, "Shall the rules be suspended?"

Roll call resulted as follows:

AYES -- Andersen, Barraclough, Barrett, Bauer, Bayer, Bedke, Bell, Black, Block, Boe, Bolz, Bradford, Campbell, Cannon, Clark, Collins, Crow, Cuddy, Deal, Denney, Douglas, Eberle, Edmunson, Ellsworth, Eskridge, Field(18), Gagner, Garrett, Harwood, Henbest, Jaquet, Jones, Kellogg, Kulczyk, Lake, Langford, Langhorst, Martinez, McGeachin, McKague, Meyer, Mitchell, Moyle, Naccarato, Nielsen, Pasley-Stuart, Raybould, Ridinger, Ring, Ringo, Roberts, Robison, Rydalch, Sali, Sayler, Schaefer, Shepherd, Shirley, Skippen, Smith(30), Smith(24), Smylie, Snodgrass, Stevenson, Trail, Wills, Wood, Mr. Speaker. Total -- 68.

NAYS -- None.

Absent and excused -- Field(23), Miller. Total -- 2.

Total -- 70.

Whereupon the Speaker declared that more than two-thirds of the membership having voted in the affirmative, the motion carried, the rules were suspended, and **S 1443** was read the first time by title, second time by title, and third time at length, section by section, and placed before the House for final consideration.

At this time, the Speaker recognized Mr. Gagner to open debate.

The question being, "Shall **S 1443** pass?"

Roll call resulted as follows:

AYES -- Andersen, Barraclough, Barrett, Bauer, Bayer, Bedke, Bell, Black, Block, Boe, Bolz, Bradford, Campbell, Cannon, Clark, Collins, Crow, Cuddy, Deal, Denney, Douglas,

Eberle, Edmunson, Ellsworth, Eskridge, Field(18), Field(23), Gagner, Garrett, Harwood, Henbest, Jaquet, Jones, Kellogg, Kulczyk, Lake, Langford, Langhorst, Martinez, McGeachin, McKague, Meyer, Miller, Moyle, Nielsen, Pasley-Stuart, Raybould, Ring, Ringo, Roberts, Robison, Rydalch, Sali, Sayler, Schaefer, Shepherd, Shirley, Skippen, Smith(30), Smith(24), Smylie, Snodgrass, Stevenson, Trail, Wills, Wood, Mr. Speaker. Total -- 67.

NAYS -- Mitchell, Naccarato, Ridinger. Total -- 3.

Paired Vote:

AYE -- Denney. NAY -- Ridinger.

(Pair enumerated in roll call above.)

Total -- 70.

Whereupon the Speaker declared **S 1443** passed the House. Title was approved and the bill was ordered returned to the Senate.

There being no objection, the House returned to the Fifth Order of Business.

Report of Standing Committees

March 18, 2004

Mr. Speaker:

We, your COMMITTEE ON EDUCATION, report that we have had under consideration **S 1444** and report it back with amendments attached to be placed on General Orders for consideration.

BARRACLOUGH, Chairman

S 1444 was placed on General Orders for consideration.

There being no objection, the House advanced to the Seventh Order of Business.

Motions, Memorials, and Resolutions

Mr. Moyle moved that the House recess until 4:30 p.m. Seconded by Ms. Jaquet. Motion carried.

Whereupon the Speaker declared the House at recess until 4:30 p.m.

RECESS

The House reconvened at 4:30 p.m., the Speaker in the Chair.

Roll call showed 69 members present.

Absent and excused -- Trail. Total -- 1.

Total -- 70.

Prior to recess, the House was at the Seventh Order of Business.

Motions, Memorials, and Resolutions

There being no objection, the House returned to the Fourth

Order of Business.

Consideration of Messages from the Governor and the Senate

March 18, 2004

Mr. Speaker:

I transmit herewith enrolled **S 1262**, as amended, **S 1275**, **S 1353**, **S 1367**, **S 1379**, **S 1394**, **S 1407**, **S 1432**, **S 1433**, and **S 1434** for the signature of the Speaker.

WOOD, Secretary

The Speaker announced he was about to sign enrolled **S 1262**, as amended, **S 1275**, **S 1353**, **S 1367**, **S 1379**, **S 1394**, **S 1407**, **S 1432**, **S 1433**, and **S 1434** and, when so signed, ordered them returned to the Senate.

March 18, 2004

Mr. Speaker:

I return herewith enrolled **HJM 18**, **HCR 55**, **HCR 44**, **H 495**, **H 549**, **H 540**, **H 569**, **H 622**, **H 618**, **H 614**, **H 615**, **H 571**, **H 642**, **H 644**, **H 623**, **H 700**, **H 516**, **H 649**, **H 663**, **H 511**, **H 558**, as amended, **H 559**, **H 563**, **H 608**, **H 474**, **H 475**, **H 568**, **H 762**, **H 763**, **H 764**, **H 766**, **H 767**, **H 668**, **H 519**, **H 593**, **H 661**, **H 643**, **H 581**, and **H 524**, as amended in the Senate, which have been signed by the President.

WOOD, Secretary

Enrolled **H 495**, **H 549**, **H 540**, **H 569**, **H 622**, **H 618**, **H 614**, **H 615**, **H 571**, **H 642**, **H 644**, **H 623**, **H 700**, **H 516**, **H 649**, **H 663**, **H 511**, **H 558**, as amended, **H 559**, **H 563**, **H 608**, **H 474**, **H 475**, **H 568**, **H 762**, **H 763**, **H 764**, **H 766**, **H 767**, **H 668**, **H 519**, **H 593**, **H 661**, **H 643**, **H 581**, and **H 524**, as amended in the Senate, were referred to the Judiciary, Rules, and Administration Committee for delivery to the Governor.

Enrolled **HJM 18**, **HCR 55**, and **HCR 44** were referred to the Judiciary, Rules, and Administration Committee for delivery to the Secretary of State.

March 18, 2004

Mr. Speaker:

I transmit herewith **SJM 110**, **SCR 134**, **S 1446**, and **S 1417** which have passed the Senate.

WOOD, Secretary

SJM 110, **SCR 134**, **S 1446**, and **S 1417** were filed for first reading.

March 18, 2004

Mr. Speaker:

I return herewith **HJM 20**, **HJM 22**, **HCR 54**, **HJM 21**, **HJM 25**, **HJM 23**, as amended, **HJM 24**, **H 789**, **H 790**, **H 791**, **H 792**, **H 793**, **H 794**, **H 818**, **H 819**, **H 822**, **H 823**, **H 824**, and **H 795** which have passed the Senate.

WOOD, Secretary

HJM 20, **HJM 22**, **HCR 54**, **HJM 21**, **HJM 25**, **HJM 23**, as amended, **HJM 24**, **H 789**, **H 790**, **H 791**, **H 792**, **H 793**,

H 794, H 818, H 819, H 822, H 823, H 824, and H 795 were referred to the Judiciary, Rules, and Administration Committee for enrolling.

Report of Standing Committees

March 18, 2004

Mr. Speaker:

We, your COMMITTEE ON JUDICIARY, RULES, AND ADMINISTRATION, report that we have enrolled **HJM 20, HJM 22, HCR 54, HJM 21, HJM 25, HJM 23**, as amended, **HJM 24, H 789, H 790, H 791, H 792, H 793, H 794, H 818, H 819, H 822, H 823, H 824, and H 795**.

FIELD(18), Chairman

The Speaker announced he was about to sign enrolled **HJM 20, HJM 22, HCR 54, HJM 21, HJM 25, HJM 23**, as amended, **HJM 24, H 789, H 790, H 791, H 792, H 793, H 794, H 818, H 819, H 822, H 823, H 824, and H 795**, and, when so signed, ordered them transmitted to the Senate for the signature of the President.

There being no objection, the House advanced to the Seventh Order of Business.

Motions, Memorials, and Resolutions

HOUSE JOINT MEMORIAL NO. 27 BY WAYS AND MEANS COMMITTEE A JOINT MEMORIAL

TO THE PRESIDENT OF THE UNITED STATES, TO THE SECRETARY OF THE DEPARTMENT OF THE INTERIOR, TO THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES IN CONGRESS ASSEMBLED, AND TO THE CONGRESSIONAL DELEGATION REPRESENTING THE STATE OF IDAHO IN THE CONGRESS OF THE UNITED STATES.

We, your Memorialists, the House of Representatives and the Senate of the State of Idaho assembled in the Second Regular Session of the Fifty-seventh Idaho Legislature, do hereby respectfully represent that:

WHEREAS, the majority of energy required by the Pacific Northwest is produced by hydropower; and

WHEREAS, spill for fish should be managed according to the most biologically effective level at each hydro project; and

WHEREAS, spilling to the maximum gas supersaturation levels of one hundred twenty percent may be increasing mortality at some dams when compared to what would occur at lesser volumes of spill; and

WHEREAS, the difference in survival between spillway passage and other passage methods may in some instances be minimal; and

WHEREAS, the maximum level of fish survival at each project may be different from and not necessarily correlated with the most spill; and

WHEREAS, spill may have negative effects on returning adults; and

WHEREAS, there are few fish in the river system in July and August because the majority of smolts are barged; and

WHEREAS, the 2000 Biological Opinion provides adequate latitude for spill adjustments including spill reductions; and

WHEREAS, spillway passage for migrating salmon can also be the passage method most costly to the regional power system, especially in years of low water or high market prices for energy; and

WHEREAS, the Bonneville Power Administration has estimated the cost of spill in the months of July and August by the Federal Columbia Power System to be approximately 77 million dollars; and

WHEREAS, the Northwest Power and Conservation Council has called on the federal government to conduct an evaluation of the biological effectiveness and costs of spillway passage at each project.

NOW, THEREFORE, BE IT RESOLVED by the members of the Second Regular Session of the Fifty-seventh Idaho Legislature, the House of Representatives and the Senate concurring therein, that we request the United States government to conduct salmon survival evaluations in the 2004 spill year, the goal of which should be to determine if it is possible to achieve the same or greater levels of survival and biological benefit to migrating fish as is currently achieved while reducing the amount of water spilled, thus decreasing the adverse impacts on the region's power supply.

BE IT FURTHER RESOLVED that the Chief Clerk of the House of Representatives be, and she is hereby authorized and directed to forward a copy of this Memorial to the President of the United States, to the Secretary of the United States Department of Interior, to the President of the Senate and the Speaker of the House of Representatives of Congress, and the congressional delegation representing the State of Idaho in the Congress of the United States.

HJM 27 was introduced, read the first time by title, and referred to the Judiciary, Rules, and Administration Committee for printing.

SJM 110, by State Affairs Committee, was introduced, read the first time by title, and referred to the Resources and Conservation Committee.

SCR 134, by State Affairs Committee, was introduced, read the first time by title, and referred to the Education Committee.

Introduction, First Reading, and Reference of Bills and Joint Resolutions

S 1446, by State Affairs Committee, was introduced, read the first time by title, and referred to the Commerce and Human Resources Committee.

S 1417, by Judiciary and Rules Committee, was introduced, read the first time by title, and referred to the Resources and Conservation Committee.

There being no objection, the House advanced to the Twelfth Order of Business.

Consideration of General Orders

Mr. Denney moved that the House do now resolve itself into a Committee of the Whole House for the consideration of General Orders. Seconded by Ms. Jaquet. Motion carried.

Whereupon the House resolved itself into a Committee of the Whole House for the consideration of General Orders with Mr. Moyle in the Chair.

When the Committee of the Whole House rose, the Speaker returned to the Chair and the House was in order.

Report of the Committee of the Whole House

March 18, 2004

Mr. Speaker:

We, your COMMITTEE OF THE WHOLE HOUSE, report that we have had under consideration **S 1444** and report it back without recommendation, amended as follows:

HOUSE AMENDMENTS TO S 1444

AMENDMENTS TO SECTION 2

On page 2 of the printed bill, delete lines 14 through 20 and insert:

"(1) "Authorized chartering entity" means either the local board of trustees of a school district in this state, or the public charter school commission pursuant to the provisions of this chapter.

(2) "Charter" means the grant of authority approved by the authorized chartering entity to the board of directors of the public charter school."

AMENDMENTS TO SECTION 3

On page 3, delete lines 18 through 23 and insert:

"(3) A public charter school may be formed either by creating a new public charter school, which charter may be granted by any authorized chartering entity, or by converting an existing traditional public school to a public charter status school, which charter may only be granted by the board of trustees of the school district in which the existing public school is located."; in line 34, following "district." insert: "The limitation provided in this subsection (4)(c) does not apply to a home-based public virtual school."; in line 36, following "commission." insert: "In addition, a charter may also be approved and granted by the state board of education pursuant to section 33-5207(5)(b), Idaho Code."; and delete lines 40 through 42 and insert:

"(7) The state board of education shall be responsible to designate those public charter schools that will be identified as a local education agency (LEA) as such term is defined in 34 CFR 300.18; however, only public charter schools chartered by the board of trustees of a school district may be included in that district's LEA."

AMENDMENTS TO SECTION 6

On page 5, delete lines 38 through 51; delete pages 6 and 7; and on page 8, delete lines 1 through 10 and insert:

"33-5205. PETITION TO ESTABLISH PUBLIC CHARTER SCHOOL. (1) Any group of persons may request the board of trustees of a school district petition to establish a new public charter school, or to convert an existing traditional public school within the school district to a public charter status school.

(a) A petition to establish a new public charter school, including a public virtual charter school, shall be signed by not fewer than thirty (30) qualified electors of the service area designated in the petition, and shall first be submitted to the local board of trustees in which the public charter school will be located. The board of trustees may either: (i) consider the petition and approve the charter; or (ii) consider the petition and reject the charter; or (iii) refer the petition to the public charter school commission. If the petitioners and the local board of trustees have not reached mutual agreement on the provisions of the charter, after a reasonable and good faith effort, within thirty (30) days from the date of the submission of the charter petition, the petitioners may withdraw their petition from the local board of trustees and may submit their charter petition to the public charter school commission.

(b) A petition to convert an existing traditional public school shall be submitted to the board of trustees of the district in which the school is located for review after approval. The petition ~~has been~~ shall be signed by not ~~less~~ fewer than sixty percent (60%) of the teachers currently employed by the school district at the school to be converted, and by one (1) or more parents or guardians of not ~~less~~ fewer than sixty percent (60%) of the students currently attending the school to be converted. ~~A petition to establish a new charter school shall be submitted to the board of trustees of the district for review after the petition has been signed by not less than thirty (30) qualified electors of the district.~~

(2) Not later than thirty (30) days after receiving a petition signed in accordance with the specifications in subsection (1) of this section, the ~~board of trustees~~ authorized chartering entity shall hold a meeting open to the public for the purpose of discussing the provisions of the charter, at which time the ~~board~~ authorized chartering entity shall consider the merits of the petition and the level of employee and parental support for the petition. In the case of a petition submitted to the public charter school commission, the public hearing shall also include any oral or written comments that an authorized representative of the school district in which the proposed public charter school would be physically located may provide regarding the merits of the petition and any potential impacts on the school district. Following review of the petition and the public hearing, the ~~board of trustees~~ authorized chartering entity shall either grant or deny the charter within sixty (60) days of receipt of the petition, provided however, that the date may be extended by an additional sixty (60) days if the petition fails to ~~meet~~ contain the requisite signatures requirements or fails to contain all of the information required in this section, or if both parties agree to the extension.

(3) ~~A board of trustees~~ An authorized chartering entity may grant a charter ~~for operation of a school~~ under the provisions of this chapter only if it determines that the petition contains the ~~number of requisite signatures, required, a statement of each of the conditions described in the information required by~~ subsection (4) of this section, and ~~descriptions of~~ additional statements describing all of the following:

(a) The proposed educational program of the public charter school, designed among other things, to identify what it means to be an "educated person" in the twenty-first century, and how learning best occurs. The goals identified in the program shall include how all educational thoroughness standards as defined in section 33-1612, Idaho Code, shall be fulfilled.

(b) The measurable student educational standards identified for use by the public charter school. "Student educational standards" for the purpose of this chapter means the extent to which all students of the public charter school demonstrate they have attained the skills and knowledge specified as goals in the school's educational program.

(c) The method by which student progress in meeting those student educational standards is to be measured.

(d) A provision by which students of the public charter school will be tested with the same standardized tests as other Idaho public school students.

(e) A provision which ensures that the public charter school shall be state accredited as provided by rule of the state board of education.

(f) The governance structure of the public charter school including, but not limited to, the person or entity who shall be legally accountable for the operation of the public charter school, and the process to be followed by the public charter school to ensure parental involvement.

(g) The qualifications to be met by individuals employed by the public charter school. Instructional staff shall be certified teachers, or may apply for a waiver or any of the limited certification options as provided by rule of the state board of education.

(h) The procedures that the public charter school will follow to ensure the health and safety of students and staff.

(i) Admission procedures, including provision for overenrollment. Such admission procedures shall provide that the initial admission procedures for a new public charter school, not a renewal, including provision for overenrollment, which specifies admission will be determined by lottery or other random method, except as otherwise provided herein. If initial capacity is insufficient to enroll all pupils who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; second, to siblings of pupils already selected by the lottery or other random method; and second third, an equitable selection process such as by lottery or other random method. If capacity is insufficient to enroll all pupils for subsequent school terms, who submit a timely application, then the admission procedures may provide that preference shall be given in the following order: first, to pupils returning to the public charter school in the second or any subsequent year of its operation; second, to children of founders, provided that this admission preference shall be limited to not more than ten percent (10%) of the capacity of the public charter school; third, to siblings of pupils already enrolled in the public charter school; and third fourth, an equitable selection process such as by lottery or other random method. There shall be no

carryover from year to year of the list maintained to fill vacancies. A new lottery shall be conducted each year to fill vacancies which become available.

(j) The manner in which an annual audit of the financial and programmatic operations of the public charter school is to be conducted.

(k) The disciplinary procedures ~~by which~~ that the public charter school will utilize, including the procedure by which students ~~can~~ may be suspended, expelled and reenrolled.

(l) A provision which ensures that all staff members of the public charter school will be covered by the public employee retirement system, federal social security, unemployment insurance and worker's compensation insurance.

(m) The public school attendance alternative for students residing within the school district who choose not to attend the public charter school.

(n) A description of the transfer rights of any employee choosing to work in a public charter school and the rights of such employees to return to any noncharter school in the school district after employment at a public charter school.

(o) A provision which ensures that the staff of the public charter school shall be considered a separate unit for purposes of collective bargaining.

(p) The procedures to be followed by the public charter school and the authorized chartering entity ~~granting the charter~~ to resolve disputes relating to provisions of the charter.

(q) The manner by which special education services will be provided to students with disabilities who are eligible pursuant to the federal individuals with disabilities education act.

(r) The manner by which eligible students from the public charter school shall be allowed to participate in dual enrollment in noncharter schools within the same district as the public charter school, as provided for in ~~chapter 2, title 33~~ section 33-203(7), Idaho Code.

(s) The process by which the citizens in the area of attendance shall be made aware of the enrollment opportunities of the public charter school.

(4) The petitioner shall provide information regarding the proposed operation and potential effects of the public charter school including, but not limited to, the facilities to be utilized by the public charter school, the manner in which administrative services of the public charter school are to be provided and the potential civil liability effects upon the public charter school and upon the ~~district~~ authorized chartering entity."

AMENDMENT TO SECTION 7

On page 8, in line 48, delete "(j)" and insert: "(j)".

AMENDMENTS TO SECTION 8

On page 9, delete lines 2 through 54; and on page 10, delete lines 1 through 10 and insert:

"33-5207. CHARTER APPEAL PROCEDURE. (1) If a local school board of trustees, acting in its capacity as an authorized chartering entity, grants a charter for the conversion of an existing traditional public school within the school district over the objection of thirty (30) or more persons or employees of the district, or if an authorized chartering entity denies a petition

for the establishment of a new public charter school for any reason including, but not limited to, failure by the petitioner to follow procedures or for failure to provide required information, then such decisions may be appealed to the state superintendent of public instruction, at the request of persons opposing the conversion of an existing traditional public school, or at the request of the petitioner whose request for a new charter was denied.

(2) The state superintendent of public instruction shall select a hearing officer to review the action of the ~~local board of trustees~~ authorized chartering entity, pursuant to section 67-5242, Idaho Code. The hearing officer shall, within thirty (30) days of the request, review the charter petition and convene a public hearing regarding the charter ~~request~~ petition. Within ten (10) days of the public hearing, the hearing officer shall submit a written recommendation to the ~~local board of trustees~~ authorized chartering entity and to the persons requesting the review. The recommendation by the hearing officer either to affirm or reverse the decision of the authorized chartering entity shall be based upon the standards and criteria contained in this chapter and upon any public charter school rules adopted by the state board of education. The recommendation shall be in writing and accompanied by a reasoned statement that explains the criteria and standards considered relevant, states the relevant contested facts relied upon, and explains the rationale for the recommendations based on the applicable statutory provisions and factual information contained in the record.

(3) Within thirty (30) days following receipt of the hearing officer's written recommendation, the ~~local board of trustees~~ authorized chartering entity shall hold a public hearing. Within ten (10) days of this hearing, the ~~local board of trustees~~ authorized chartering entity shall either affirm or reverse its initial decision. The ~~board's~~ authorized chartering entity's decision shall be in writing and contain findings which explain the reasons for its decision.

(4) If, upon reconsideration of a decision to approve the conversion of an ~~existing traditional public~~ school to a public charter school, the local school board:

- (a) Affirms its initial decision to authorize such conversion, the charter shall be granted and there shall be no further appeal.
- (b) Reverses its initial decision and denies the conversion, that decision is final and there shall be no further appeal.

(5) If, upon reconsideration of a decision to deny establishment of a new public charter school, the ~~local school board~~ authorized chartering entity:

- (a) Reverses its initial decision and approves the new public charter school, the charter shall be granted and there shall be no further appeal.
- (b) Affirms its initial decision denying the new public charter school, the petitioners for the establishment of the new public charter school may appeal to the state board of education. The state board of education shall hold a public hearing ~~at its next regular meeting~~ within a reasonable time after receiving notice of such appeal but no later than sixty (60) calendar days after receiving such notice, and after the public hearing, shall take any of the following actions: (i) approve the charter for the establishment of a new public charter school if it determines that the ~~local board of trustees~~

authorized chartering entity failed to appropriately consider the charter ~~request~~ petition, or if ~~the local board~~ it acted in an arbitrary manner in denying the request; (ii) remand the matter back to the authorized chartering entity for further review as directed by the state board of education; or (iii) redirect the matter to another authorized chartering entity for further review as directed by the state board of education. Such public hearing shall be conducted pursuant to procedures as set by the state board of education.

(6) A public charter school for which a charter is granted by the state board of education shall qualify fully as a public charter school for all funding and other purposes of this chapter. The ~~state board of education~~ public charter school commission shall assume the role of the authorized chartering entity for any charter authorized by the state board of education as provided in subsection (5)(b) of this section. Employees of a public charter school authorized by the state board of education shall not be considered employees of the local school district in which the public charter school is located, nor of the state board of education, nor of the commission.

(7) The ~~finding~~ decision of the state board of education shall be subject to review pursuant to chapter 52, title 67, Idaho Code. Nothing in this section shall prevent a petitioner from bringing a new petition at a later time.

(8) There shall be no appeal of a decision by a local school board of trustees which denies the conversion of an existing traditional public school within that district to a public charter school, or which grants a petition for the establishment of a new public charter school."

AMENDMENTS TO SECTION 9

On page 10, delete lines 13 through 53; and on page 11, delete lines 1 through 16 and insert:

"33-5209. ~~TIME LIMITS ENFORCEMENT~~ -- REVOCATION -- APPEAL. (1) ~~A charter granted pursuant to this chapter shall be valid for a period not to exceed five (5) years. A charter may be granted one (1) or more subsequent renewals by the original granting authority. Each renewal shall be valid for a period not to exceed five (5) years. A material revision of the provisions of the charter petition may be made only with the approval of the authority which granted the charter.~~ An authorized chartering entity shall ensure that all public charter schools for which it authorized charters, or for which it has responsibility, operate in accordance with the charter granted. A public charter school may petition to revise its charter at any time. The authorized chartering entity's review of the revised petition shall be limited in scope solely to the proposed revisions.

(2) ~~A charter may be revoked by the original granting authority if the authority finds authorized chartering entity has reason to believe that the public charter school has done any of the following, it shall provide the public charter school written notice of the defect and provide a reasonable opportunity to cure the defect:~~

- (a) Committed a material violation of any condition, standard or procedure set forth in the approved charter; ~~petition;~~
- (b) Failed to substantially meet any of the student educational standards identified in the approved charter; ~~petition;~~

(c) Failed to meet generally accepted accounting standards of fiscal management;

(d) Failed to submit required reports to the ~~authority which~~ authorized chartering entity governing the charter; or

(e) Violated any provision of law.

(3) A charter may be revoked by the authorized chartering entity if the public charter school has failed to cure a defect after receiving reasonable notice and having had a reasonable opportunity to cure the defect. Revocation may not occur until the public charter school has been afforded a public hearing and a reasonable opportunity to cure the defect, unless the authorized chartering entity reasonably determines that the continued operation of the public charter school presents an imminent public safety issue, in which case the charter may be revoked immediately. Public hearings shall be conducted by the governing authorized chartering entity, or such other person or persons appointed by the authorized chartering entity to conduct public hearings and receive evidence as a contested case in accordance with section 67-5242, Idaho Code. Reasonable notice and opportunity to reply shall include, at a minimum, written notice setting out the basis for consideration of revocation, a period of not less than thirty (30) days within which the public charter school can reply in writing, and a public hearing within thirty (30) days of the receipt of the written reply.

(4) A decision to revoke, ~~not to renew,~~ or not to approve a revision of a charter may be appealed directly to the state board of education. With respect to such appeal, the state board of education shall essentially follow the procedure as provided in section 33-5207(5)(b), Idaho Code. In the event the state board of education reverses a decision of revocation, the public charter school subject to such action shall then be placed under the chartering authority of the commission."

AMENDMENTS TO SECTION 12

On page 12, in line 26, following "current" insert: "board"; and delete lines 31 through 46 and insert:

"(c) One (1) member shall be a member of the public at large not directly associated with the Idaho public education system, and shall be appointed by the governor, subject to the advice and consent of the senate.

For the purpose of establishing staggered terms of office, the initial term of office for three (3) commission members shall be four (4) years and thereafter shall be four (4) years; the initial term of office for two (2) members shall be three (3) years and thereafter shall be four (4) years; and the initial term of office for two (2) members shall be two (2) years and thereafter shall be four (4) years. In making such appointments, the governor shall consider regional balance. Members of the commission shall hold".

AMENDMENTS TO SECTION 14

On page 13, in line 18, following "act" delete the remainder of the line; delete line 19 and insert: ". ".

CORRECTION TO TITLE

On page 1, in line 7, following "SCHOOL," insert: "TO PROVIDE THAT A NEW PUBLIC CHARTER SCHOOL MAY BE APPROVED BY AN AUTHORIZED CHARTERING ENTITY,"; and in line 23, delete "PROVIDE" and insert:

"CLARIFY THE".

MOYLE, Chairman

Mr. Moyle moved that the report be adopted. Seconded by Mr. Denney.

Whereupon the Speaker declared the report adopted.

S 1444, as amended in the House, was filed for first reading.

The amendments were referred to Judiciary, Rules, and Administration committee for printing.

There being no objection, the House returned to the Fifth Order of Business.

Report of Standing Committees

March 18, 2004

Mr. Speaker:

We, your COMMITTEE ON HEALTH AND WELFARE, report that we have had under consideration **S 1317**, as amended, and **S 1290** and recommend that they do pass.

SALI, Chairman

S 1317, as amended, and **S 1290** were filed for second reading.

Mr. Deal asked unanimous consent that **H 798**, as amended, be returned to the State Affairs Committee. There being no objection, it was so ordered.

There being no objection, the House advanced to the Sixteenth Order of Business.

Adjournment

Mr. Moyle moved that the House adjourn until 9:30 a.m., Friday, March 19, 2004. Seconded by Ms. Jaquet. Motion carried.

Whereupon the Speaker declared the House adjourned at 5:51 p.m.

BRUCE NEWCOMB, Speaker

ATTEST:

PAMM JUKER, Chief Clerk